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8 ALEX VILLANUEVA

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10 **THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 ALEX VILLANUEVA,
12 Plaintiff,
13 vs.
14 COUNTY OF LOS ANGELES,
15 COUNTY OF LOS ANGELES
16 SHERIFF'S DEPARTMENT, LOS
17 ANGELES COUNTY BOARD OF
18 SUPERVISORS, COUNTY EQUITY
19 OVERSIGHT PANEL, LOS
20 ANGELES COUNTY OFFICE OF
21 INSPECTOR GENERAL,
22 CONSTANCE KOMOROSKI,
23 MERCEDES CRUZ, ROBERTA
24 YANG, LAURA LECRIVAIN,
25 SERGIO V. ESCOBEDO, RON
26 KOPPERUD, ROBERT G. LUNA,
27 MAX-GUSTAF HUNTSMAN,
28 ESTHER LIM, and DOES 1 to 100,
inclusive,
Defendants.

Case No.: 2:24 -cv-04979 SVW (JC)
The Honorable Stephen V. Wilson
Assigned to Magistrate Judge Jacqueline Chooljian
PLAINTIFF'S MOTION TO EXCLUDE EXPERT REPORT, OPINION, AND TESTIMONY OF VIDA THOMAS
(MIL NO. 6 OF 6)

[Filed concurrent with Declaration of Alex DiBona ("DiBona Decl."), Exhibits and Proposed Order thereon]

Date: May 26, 2025
Time: 1:30 p.m.
Dept.: 10A

Trial Date: June 3, 2025
Action Filed: June 13, 2024

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on May 26, 2025, or as soon thereafter as the
3 matter may be heard before the Honorable Stephen V. Wilson in Courtroom 10A of the
4 United States District Court for the Central District of California, located at 350 West 1st
5 Street, Los Angeles, California 90012, Plaintiff Alex Villanueva (“Plaintiff” or
6 “Villanueva”) will and hereby does move the Court to exclude the expert report, opinions,
7 and potential testimony of Defendants’ expert Vida Thomas (“Thomas”) pursuant to
8 Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509
9 U.S. 579 (1993).

10 This motion is made on the grounds that Thomas’ opinions are impermissible legal
11 conclusions that usurp the role of the Court and jury, are not based on reliable methodology
12 or specialized knowledge, and fail to meet the threshold standards for admissibility under
13 Rule 702. Thomas does not apply any independent human resources industry standards or
14 scientific methodology to assess the facts of the case. Instead, she parrots legal standards
15 and renders ultimate legal conclusions, thereby transforming her report into a legal brief
16 disguised as expert testimony.

17 This motion is based on this Notice of Motion and Motion, the accompanying
18 Memorandum of Points and Authorities, the Declaration of Alex DiBona, Esq. and
19 attached exhibits, the pleadings and records in this action, and such other argument and
20 evidence as may be presented at the hearing on this matter.

21
22 Dated: April 28, 2025

SHEGERIAN & ASSOCIATES, INC.

23
24 By: Alex DiBona
25 Alex DiBona, Esq.

26 Attorneys for Plaintiff,
27 ALEX VILLANUEVA

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2 **1. INTRODUCTION**

3 Plaintiff Alex Villanueva (“Plaintiff” or “Villanueva”) moves to exclude the expert
4 report, opinion, and potential testimony of Vida Thomas (“Thomas”), Defendants’
5 designated expert on human resources issues, as follows:

6 Defendants designated an employment lawyer, Thomas, to “render an opinion of the
7 Defendant’s actions in response to complaints of workplace discrimination, harassment
8 and retaliation, including what is considered typical and acceptable human resource
9 practice regarding responding to and investigating such complaints.” (See Exh. 1, Thomas
10 Report at p. 18.) However, Thomas’ description of her role misrepresents the true nature
11 of her submission. Her purported “opinions” consist primarily of improper legal
12 conclusions rather than admissible expert testimony. Moreover, many of her “opinions”
13 exceed the scope of her qualifications and are rooted in subjective value judgments rather
14 than any established or objective standard. For example, Ms. Thomas, who is a lawyer,
15 gives the “applicable standards” and cites Supreme Court opinions and EEOC guidance.
16 (*Id.*) Ms. Thomas further purports to state the standard for liability for retaliation. (*Id.* at
17 7). It is clear that this is not a “human resource” expert but simply a legal brief.

18 As such, her opinions are unhelpful to the jury and inherently unreliable.
19 Consequently, the Court should strike Thomas’ expert report, opinions, and potential
20 testimony.

21 **2. STANDARD OF REVIEW**

22 Federal Rule of Evidence 104(a) assigns to the Court the responsibility for resolving
23 preliminary questions concerning witness qualification and the admissibility of evidence.
24 FED. R. EVID. 104(a). Rule 702 sets forth expert qualifications and permits an expert to
25 testify only if: (a) her scientific, technical, or other specialized knowledge will help the
26 trier of fact to understand the evidence or to determine a fact in issue; (b) her testimony is
27 based on sufficient facts or data; (c) her testimony is the product of reliable principles and
28 methods; and (d) she has reliably applied the principles and methods to the facts of the

1 case. FED. R. EVID. 702. In practical terms, this means the court “must ensure that all
2 admitted expert testimony is both relevant and reliable.” *Grodzitsky v. Am. Honda Motor*
3 *Co., Inc.*, 957 F.3d 979, 984 (9th Cir. 2020) (citation omitted); *accord Daubert v. Merrell*
4 *Dow Pharms., Inc.*, 509 U.S. 579, 598 (1993).

5 Importantly, “[t]he party offering the expert bears the burden of establishing that Rule
6 702 is satisfied.” *Speer v. Cnty. of San Bernardino*, No. EDCV 20-44 JGB (SPX), 2021
7 WL 4459680, at *2 (C.D. Cal. July 9, 2021) (quoting *Sundance Image Tech., Inc. v. Cone*
8 *Editions Press, Ltd.*, 2007 WL 935703, *4 (S.D. Cal. Mar. 7, 2007)).

9 **3. ARGUMENT**

10 Thomas’ report, opinion, and potential testimony Rule 702 and *Daubert* criteria in
11 several ways.

12 **A. Thomas’ Opinions are Legal Conclusions.**

13 It is well-settled that “an expert witness cannot give an opinion as to her legal
14 conclusion, *i.e.*, an opinion on an ultimate issue of law” because “instructing the jury as to
15 the applicable law is the distinct and exclusive province of the court.” *Nationwide Transp.*
16 *Fin. v. Cass Info. Sys., Inc.*, 523 F.3d 1051, 1058 (9th Cir. 2008) (citation omitted); *see also Summers v. A.L. Gilbert Co.* 69 Cal. App. 4th 1155, 1179 (“[T]he calling of lawyers
17 as ‘expert witnesses’ to give opinions as to the application of the law to particular facts
18 usurps the duty of the trial court to instruct the jury on the law as applicable to the facts).
19 Thomas’ report, opinions, and potential testimony undeniably violate this prohibition.

20 Thomas is an employment lawyer whose firm conducts workplace investigations.
21 (*See* Exh. 1 at pp. 1-2). Her report is not an expert analysis, it is a legal brief masquerading
22 as expert opinion. While she attempts to obscure her legal conclusions by characterizing
23 them under the guise of “well-developed standards in the human resource field,” she
24 simply cites legal obligations, followed by the application of the legal principles to the
25 facts provided by Defendants’ Counsel. For example:

26

- 27 • She recites and applies *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998), and
28 *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), to assert that the County is

1 entitled to a legal affirmative defense because of its internal policies. (Exh. 1 at p.
2 7.)

3

- 4 She interprets California precedent such as *Cotran v. Rollins Hudig Hall Intl., Inc.*,
5 17 Cal. 4th 93 (1998), to conclude the County's investigation grants it "qualified
6 immunity from liability." (*Id.*)
- 7 She declares that the County's internal decisions conformed to "well-established
8 HR standards," though her supporting explanation consists solely of references to
9 DFEH and EEOC legal guidance. (*Id.* at pp. 8–9.)

10 None of these standards derive from Ms. Thomas's expertise in "human resources"
11 issues, they are not gleaned from knowledge of industry practices or procedures, nor does
12 Ms. Thomas ever claim they do. (*See generally* Exh. 1). Instead, she effectively admits
13 that what she calls "standards in the human resource field" are simply legal principles in
14 disguise. Mid-way through her report, for instance, she cites certain court cases and EEOC
15 guidance for the legal proposition that "[e]mployees are to be protected from retaliation
16 regardless of whether there was a finding of discrimination or harassment." (Exh. 1 at p.
17 7.)

18 A few paragraphs later, what was previously an expressly legal proposition she now
19 calls "[a] well-developed standard in the human resource field." (*Id.* at p. 8) ("well-
20 developed standards in the human resource field relating to practices in preventing and
21 responding to workplace complaints of harassment, misconduct, discrimination, threats of
22 violence and retaliation and how to investigate a complaint.") Thus, this deceptive labeling
23 is an improper attempt to mask the fact that Thomas' report is a legal brief. *See Elliott v.*
24 *Versa CIC, L.P.*, 349 F. Supp. 3d 1004, 1006 (S.D. Cal. 2018) (excluding expert where,
25 "through the guise of an expert on real estate and property management 'standards of care,'
26 Defendants seek to proffer [the expert] to opine on the ultimate question of whether
27 Plaintiffs suffered discrimination in violation of federal and state law.").

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**B. Thomas Lacks Expertise in Government Employment Practices and Her
Opinions Rely Entirely on Defendants' Narrative.**

Thomas lacks any specialized expertise in public sector employment practices or

1 governmental disciplinary policies, including the use and implementation of “Do Not
2 Rehire” lists. Her professional background is rooted in representing private employers and
3 conducting investigations, not in navigating the complex procedural frameworks that
4 govern public employment decisions or civil service protections. Despite this, she opines
5 on the propriety of the County’s “Do Not Rehire” designation as though it reflects a
6 universally accepted HR standard. (Exh. 1 at pp. 9–10.) She fails to cite any data, policy
7 studies, or industry-wide benchmarking related to the use of rehire bans within large
8 government employers.

9 Moreover, her methodology appears to consist of nothing more than accepting as
10 valid the factual narrative and internal justifications supplied by Defendants’ Counsel. Her
11 report reveals no effort to independently evaluate how other government agencies handle
12 similar rehire decisions, nor does it reflect any critical inquiry or analysis. Instead, Thomas
13 simply adopts what the County did and offers a blanket endorsement of those actions as
14 “reasonable” and “in accordance with HR standards.” This subjective alignment with the
15 Defendants’ litigation position further undermines Thomas’ credibility and reinforces that
16 her testimony is litigation advocacy, not expert analysis.

17 **4. CONCLUSION.**

18 Thomas’ report, opinions, and potential testimony offer only improper legal
19 conclusions and irrelevant, unreliable, and unhelpful opinions. In short, she offers only
20 legal argument in the guise of legitimate expert testimony. Since Defendants cannot meet
21 their obligation to satisfy the Rule 702 and *Daubert* standards, the Court should strike
22 Thomas as a witness and preclude her from offering any report, opinions, or testimony in
23 this matter.

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Dated: April 28, 2025

SHEGERIAN & ASSOCIATES, INC.

By: Alex DiBona
Alex DiBona, Esq.

Attorneys for Plaintiff,
ALEX VILLANUEVA

1 **VILLANUEVA v. COUNTY OF LOS ANGELES, et al. USDC Case No. 2:24-cv-04979 SVW (JC)**

2 **PROOF OF SERVICE**

3 **UNITED STATES DISTRICT COURT**

4 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

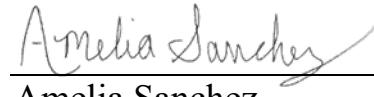
5 I am an employee in the County of Los Angeles, State of California. I am over the
6 age of 18 and not a party to the within action; my business address is 11520 San Vicente
Boulevard, Los Angeles, California 90049.

7 On April 28, 2025, I served the foregoing document, described as "**PLAINTIFF'S**
8 **MOTION TO EXCLUDE EXPERT REPORT, OPINION, AND TESTIMONY OF**
VIDA THOMAS," on all interested parties in this action as follows:

9 **Louis R. Miller (State Bar No. 54141)**
smiller@millerbarondess.com
10 **Jason H. Tokoro (State Bar No. 252345)**
jtokoro@millerbarondess.com
11 **Steven G. Williamson (State Bar No. 343842)**
swilliamson@millerbarondess.com
12 **MILLER BARONDESS, LLP**
2121 Avenue of the Stars, Suite 2600
13 **Los Angeles, California 90067**

14 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the
15 document(s) with the Clerk of the Court by using the CM/ECF system. Participants
16 in the case who are registered CM/ECF users will be served by the CM/ECF system.
Participants in the case who are not registered CM/ECF users will be served by mail
17 or by other means permitted by the court rules.
18 **(FEDERAL)** I declare that I am employed in the office of a member of the bar of
this Court at whose direction the service was made.

19 Executed on April 28, 2025, at Los Angeles, California.

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21 Amelia Sanchez
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Amelia Sanchez